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Information received from the United Nations system

Note by the Secretariat

In its report on its second session, held in May 2003, the Permanent Forum on Indigenous Issues identified proposals, objectives, recommendations and areas of possible future action and, through the Economic and Social Council, recommended that States, United Nations system and intergovernmental organizations, indigenous peoples and non-governmental organizations assist in their realization. Information received in this regard from the United Nations system is contained in the present document and its addenda.

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United Nations Human Settlements Programme

Summary

The United Nations Human Settlements Programme (UN-Habitat) works towards improving living conditions, development of adequate shelter for all and sustainable human settlements development, while focusing on the needs of the poor and other vulnerable and disadvantaged groups, including indigenous peoples. The Habitat Agenda and other relevant international instruments and framework related to economic and social development and human rights provide guidance to UN-Habitat in its work in the human settlements development field. The main ongoing activities of UN-Habitat relevant to the needs of indigenous peoples are related to the efforts to promote inclusiveness, social integration and the realization of housing rights in human settlements, for example, activities related to the implementation of target 11 of the Millennium Development Goals, the Global Campaign on Urban Governance, the Global Campaign for Secure Tenure and the United Nations Housing Rights Programme.

In response to the outcome and requests from the second session of the Permanent Forum on Indigenous Issues, held in May 2003, in particular those related to actions requested in paragraphs 5 (a), 32 and 79 of the recommendations, UN-Habitat has strengthened its focus on indigenous issues and the needs of indigenous peoples. Jointly with the Office of the United Nations High Commissioner for Human Rights and in response to the requests in paragraph 32, UN-Habitat is undertaking a research project on indigenous peoples and the right to adequate housing: a global overview. This research indicates that despite some focused policies and practices in a number of countries, indigenous peoples suffer from worse living and housing conditions than the population at large. The final report of this research initiative — including case studies from Australia, Canada, Ecuador, Finland, Kenya, Mexico, Norway, Sweden, the Philippines and the Russian Federation — is expected to be published towards the end of 2004. The highlights of the research findings, the preliminary observations and recommendations are summarized in section IV of this report.

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I. Introduction

1. The present report is prepared in response to recommendations of the Permanent Forum on Indigenous Issues at its second session as specified in paragraphs 5 (a), 32 and 79, and in other paragraphs of its report[1] as related and relevant to the mandate and activities of the United Nations Human Settlements Programme (UN-Habitat). This response can be found in sections III and IV below. The summary of work in progress presented in section IV should be noted as the most specific current activity of UN-Habitat related to indigenous peoples and issues.

2. Information and suggestions regarding the special theme of the third session "Indigenous women" and related UN-Habitat activities are presented in paragraphs 11 to 16 below. It should also be noted that the research in progress on indigenous peoples and the right to adequate housing: a global overview — which is summarized in section IV below — has a particular focus on the conditions of and issues relevant to indigenous women.

3. Major upcoming conferences/meetings of UN-Habitat most relevant to indigenous issues include:

(a) The second session of the World Urban Forum, to be held at Barcelona, Spain, from 13 to 17 September 2004;

(b) The twentieth session of the Governing Council of UN-Habitat, to be held at Nairobi, from 11 to 15 April 2005.

II. Background and general context of UN-Habitat activities regarding indigenous issues

4. UN-Habitat works towards development of adequate shelter for all and sustainable human settlements development with the focus on increasing inclusiveness and social integration, the eradication of poverty and the realization of housing rights as effective means to improving living conditions. The activities have a particular focus on protecting vulnerable and disadvantaged groups, including the urban poor and indigenous peoples, particularly through measures that aim to promote, protect and fulfil human rights. This work is guided by the Habitat Agenda[2] and the United Nations Millennium Declaration[3] as well as human rights instruments, treaties and their monitoring bodies.

5. The Habitat Agenda addresses issues of indigenous peoples extensively, and a total of 14 out of its 241 paragraphs makes reference to this topic, elaborating on current conditions and needed actions. Paragraph 122 in particular provides extensive guidance to governments and leaders of indigenous communities in order to "promote the continuing progress of indigenous peoples and to ensure their full participation in the development of the rural and urban areas in which they live, with full respect for their cultures, languages, traditions, education, social organizations and settlement patterns".[2]

6. Based on these objectives and guidance, UN-Habitat, through its diverse activities, seeks to raise the awareness and to enhance the capacity of central and local government policy makers and stakeholders so that housing, land, property and

other socio-economic issues can be dealt with more effectively. Actions of UN-Habitat relevant to these contexts are implemented as part of and contribute to its main initiatives related to indigenous peoples and issues, namely:

(a) The implementation of target 11 of the Millennium Development Goals, which aims to improve the lives of at least 100 million slum-dwellers by 2020;

(b) The Global Campaign on Urban Governance;

(c) The Global Campaign for Secure Tenure;

(d) The United Nations Housing Rights Programme.

III. Specific relationship of UN-Habitat activities to issues emphasized at the second session of the Forum requiring action from United Nations organizations/agencies

7. As explained above, UN-Habitat is addressing most of the issues raised at the second session of the Forum within its general activities aimed at improving living conditions of the poor, vulnerable and disadvantaged groups, including indigenous peoples. Within this framework, the work of UN-Habitat on security of tenure provides scope for strategic partnership with indigenous people in addressing the complex nature of land issues. All indigenous people retain a strong sense of their distinct cultures, the most salient feature of which is a special relationship to land. The work of UN-Habitat on poverty alleviation and the Millennium Development Goals has the potential to establish natural links with indigenous people's livelihoods. UN-Habitat seeks to promote the participation of civil society/non-governmental organizations in human settlements development and related decision-making processes. This is also very relevant to the needs and concerns of indigenous peoples. Despite the fact that urban settlements hold tremendous potential as engines of economic and social development, they can at the same time also generate and intensify social exclusion, denying the benefits of urban life to the poor, to women, youth and indigenous peoples, religious or ethnic minorities and other marginalized groups. The focus of UN-Habitat in this regard is to promote sustainable urbanization and urban poverty reduction with active engagement of civil society as well as broad-based participation, particularly by youth.

8. The Habitat Agenda emphasizes the need to work in partnership with youth — including indigenous youth — in employment programmes and vocational skills development that enhance their capacity to participate fully in urban poverty reduction. Although it has no specific projects or programmes on indigenous children and youth, UN-Habitat has the operational and normative experience of dealing with local authorities through its various programme activities. It is through this approach that innovative projects at the local level related to urban youth including indigenous youth, can be formulated and implemented.

9. With a view to achieving synergy and optimization of the use of resources allocated to youth in several agencies, the active participation and contribution of United Nations agencies in joint programming has been considered necessary. UN-Habitat thus intends to collaborate with other agencies in addressing the issues of youth, including indigenous youth, through the proposed global partnership initiative for youth in Africa. The entities identified for such collaboration by the

Governing Council of UN-Habitat at its nineteenth session are the International Labour Organization (ILO), the United Nations Children's Fund (UNICEF), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Office on Drugs and Crime and the Department of Economic and Social Affairs.[4]

10. It is envisaged that the second World Urban Forum — which is part of the Universal Forum of Cultures and will take place in Barcelona in September 2004 — will bring together young people from all over the world. This Forum will provide avenues for the involvement of indigenous communities, particularly the youth. UN-Habitat has established links with organizations such as the Minority Rights Group for this purpose.

11. UN-Habitat has a specific organizational unit — the Gender Policy Unit — which aims at ensuring the effective implementation by UN-Habitat of its gender policy and addressing the Habitat Agenda commitment to gender equality. The gender policy of UN-Habitat has three overall objectives:

(a) To promote women's equal rights and women's empowerment internationally within the area of human settlements development;

(b) To support governments, non-governmental organizations and other partners in capacity-building and development in order to mainstream gender equality in human settlements development;

(c) To mainstream a gender perspective throughout UN-Habitat's activities.

While working towards these objectives, UN-Habitat focuses particularly on the needs of the most vulnerable and disadvantaged women's groups, including indigenous women.

12. The main method of outreach for the empowerment of women in human settlements is through the global women's networks that form part of the Huairou Commission. These networks include the Habitat International Coalition Women and Shelter Network, Grassroots Organizations Operating Together in Sisterhood and the International Council of Women. These networks aim to advance the capacity of grass-roots women worldwide to strengthen and create sustainable communities. The Gender Task Force, an internal body in UN-Habitat, aims to mainstream gender in all aspects of the programme's work. This body meets regularly to develop a consolidated gender mainstreaming approach, methods, tools and instruments. It also has members who are the gender focal points in the three regional offices in Rio de Janeiro, Brazil, Fukuoka, Japan and Nairobi.

13. Together with the United Nations office of the Special Adviser on Gender Issues and Advancement of Women, the Division for the Advancement of Women of the Department of Economic and Social Affairs of the Secretariat, the Inter-Agency Committee on Women and Gender Equality and the Huairou Commission, the umbrella body for international networks on women, homes and communities, UN-Habitat and the women's networks partners are currently engaged in a wide range of activities to bring the concerns of grass-roots women into public decision-making and policy at a variety of levels. Current activities include the Grassroots Women's International Academy for peer-group learning among communities in the North and South, the "local-local dialogues" to activate grass-roots women's participation in local authority decision-making. The Gender Policy Unit works closely with the

global campaigns on secure tenure and good urban governance. Extensive work on women's property rights is also under way. A draft policy paper on women and urban governance was prepared in 2000 and is currently being reviewed by partners.

14. The ongoing research on indigenous peoples and the right to adequate housing indicates that indigenous women are particularly affected by inadequate housing conditions and other elements that violate or hinder realization of housing rights.

15. Just as noted for indigenous youth above, the World Urban Forum — to be convened at Barcelona in September 2004 — provides avenues for the involvement of indigenous women, and opportunities for them to raise their concerns.

16. The most significant activity of UN-Habitat specifically on indigenous peoples and issues is, however, the research initiative on indigenous peoples and the right to adequate housing: a global overview, undertaken within the United Nations Housing Rights Programme, which is implemented jointly with the Office of the United Nations High Commissioner for Human Rights. This initiative was developed in response to paragraphs 6 (a), 25 (e) and 28 (b) of the report on the first session of the Forum,[5] and is also contributing to the United Nations system-wide work as defined and requested in paragraphs 3 (a)-3 (c), 8 and 24 of the same report and to the requirements of paragraph 5 of General Assembly resolution 57/191 of 18 December 2002. This initiative also provides a response to several recommendations of the Forum at its second session, in particular to the needs specified in paragraph 32 of the report of that session.[1]

17. In that recommendation (para. 32), the Forum drew the attention of all concerned — including the Governments and related United Nations organizations — to the global trend of increasing urbanization, which affects substantially also indigenous populations, and invites focused actions to improve living and housing conditions of indigenous peoples. This paragraph especially recommends that UN-Habitat submit a report to the Forum at its third session and participates in the dialogue on that topic. Since the research undertaken and the finalization of its report could not be completed in time to be submitted to the third session of the Forum, the summary of work in progress in section IV below is submitted to present the highlights of the preliminary findings, observations and recommendations.

IV. Summary of the work in progress on the study on indigenous peoples and the right to adequate housing: a global overview

18. The study has been undertaken as an activity of the United Nations Housing Rights Programme in close collaboration with the Office of the United Nations High Commissioner for Human Rights and the secretariat of the Forum. The methodology for the study takes into account its global scope and the fact that it is the first study of its kind. The study includes a review of relevant literature, identification of case studies, and a collection of primary data through direct contacts with organizations/networks of indigenous peoples.

19. What is presented here is a summary of the preliminary findings of this study. The summary does not include a discussion of the case studies undertaken, but draws on the lessons learned from these studies. The experiences from Australia,

Canada, Ecuador, Finland, Kenya, Mexico, Norway, Sweden, the Philippines and the Russian Federation will be elaborated upon in the final report, which will be published towards the end of 2004.

20. In every region of the world, indigenous peoples constitute one of the most disadvantaged groups. Their disadvantage is experienced in all realms — economic, social, political, environmental and cultural — and is reflected in their living and housing conditions. The study provides a global overview of these conditions, and an assessment of the extent to which indigenous peoples' housing rights are recognized and implemented. Where possible, the study focuses on the housing experiences of indigenous women, who often bear the brunt of poor housing conditions, and who experience gender-specific forms of housing inequality. Despite the importance of housing in the everyday lives of indigenous peoples and the deep connection between housing and land rights, this study seems to be the first research report specifically devoted to the housing conditions of indigenous peoples.

21. The summary follows the structure of the final report in progress, with the exception of the case studies, which have been excluded from this summary. Section A provides the context for the discussion that follows. It outlines definitions, or rather characteristics of the term "indigenous" and provides a brief global overview of the living conditions of indigenous peoples, as well as an introduction to their relationship to land. Section B provides an overview of international legislation pertaining in general to housing rights and specifically to indigenous peoples. Section C reflects on the case studies undertaken and highlights commonalities and emerging themes. Broad observations about the status of indigenous women's and men's housing rights are elaborated upon. These concluding observations form the basis for preliminary recommendations for international and national action (in section D) aimed at improving the housing conditions of indigenous peoples.

A. Context

Who is indigenous?

22. It is estimated that there are over 300 million indigenous people in more than 70 countries worldwide. While there is no universally agreed upon definition of "indigenous", the characterizations most relied upon internationally are those proposed in the 1986 report by José Martinez Cobo[6] and ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. Both definitions include an emphasis on self-identification.

23. The Martinez Cobo report states that indigenous communities, peoples and nations are those that have a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, and those that consider themselves distinct from other sectors of the societies now prevailing in those territories.

24. ILO Convention No. 169 states that people are considered indigenous either because they are the descendants of those who lived in the area before colonization, or because they have maintained their own social, economic, cultural and political institutions since colonization and the establishment of new States. It states that self-identification "shall be regarded as a fundamental criterion" for determining the groups to which the Convention applies.

25. This study relied on both of these characterizations to determine the appropriateness of case studies, relying in particular on the concept of self-identification.

Current living conditions of indigenous peoples

26. Indigenous peoples today live under conditions of severe disadvantage. Poverty is one of the characteristics that define the lives of many, if not most, indigenous peoples. In almost every country, indigenous peoples are more likely than the mainstream population to have low incomes, poorer physical living conditions (including overcrowding in poor quality housing), less valuable assets, less and poorer access to education, health care and related services. They are also subjected to worse access to markets for labour, land, credit and a range of other goods and services, and experience weaker political representation. Indigenous peoples in many countries experience widespread discrimination. Moreover, in some cases where education, health care and other facilities are available to indigenous peoples, they are often culturally inappropriate.

Indigenous peoples and land

27. Lands, territories and resources are often of spiritual, social, cultural, economic and political significance to indigenous peoples and are inextricably linked to their identity and continued survival and vitality. The socio-economic disadvantage experienced by indigenous peoples across the world can be traced to both the historical and contemporary dispossession of indigenous peoples from their lands and the exclusion of indigenous peoples from economic activity.

28. Today, dispossession of indigenous lands and resources occurs when, inter alia, States fail to acknowledge indigenous rights to lands, territories and resources, and/or when States expropriate indigenous lands for "national interests", including development. Whether in Australia, Canada, Ecuador, Mexico, Scandinavia, the Philippines or the Russian Federation, indigenous peoples often lack security of tenure, living with the threat of forced eviction from their homes and/or lands.

29. The expropriation of indigenous peoples' lands for development purposes without adequate compensation measures is particularly harmful to the socio-economic status of indigenous peoples. In every part of the world, the lands and resources of indigenous peoples are desirable targets for large-scale development projects such as hydroelectric and multi-purpose dams, as well as for mining and logging operations, and tourism development projects. Such expropriations are driving indigenous peoples from rural to urban areas, where housing is scarce, expensive and — because of discrimination — often inaccessible.

30. The loss of lands has particularly severe impacts on indigenous women. For example, it often results in an increased workload for women, who must walk long distances to find alternate sources of water. Moreover, women can lose their integral role in agricultural production, driving them out of income-earning productive activities and thus compel their dependence on men.

Self-determination, land and housing

31. The dispossession of indigenous peoples from their lands has robbed them of the ability and opportunity to use their own resources to further their own

development. This has deeply affected their ability to access and maintain adequate housing. Because the enjoyment of adequate housing is intertwined with indigenous peoples' access to and control over resources, housing must be understood as an integral component of the rights to self-determination and land — the cornerstones of indigenous peoples' struggles around the world. If indigenous peoples had secure land rights they could choose whether to migrate to cities. At the same time, secure land rights would provide an economic base that could be used to assist urban indigenous populations.

B. International human rights instruments and mechanisms

32. Indigenous peoples' right to housing is protected under two international human rights legal frameworks: international instruments pertaining to housing rights and instruments specific to indigenous peoples. The rights of indigenous women are protected within each of these frameworks through provisions on non-discrimination and equality.

Housing rights instruments and mechanisms

33. There are several international human rights documents pertaining to the right to adequate housing. Treaties codify the right; treaty monitoring bodies apply the right and assess the extent to which State parties have implemented it; general comments provide an interpretation of the right; special rapporteurs provide a detailed independent analysis of the right using specific country contexts to highlight their findings; and human rights resolutions and world conference documents reaffirm the right and political commitment to it. This study reviewed the various references to housing rights, highlighting relevant provisions for indigenous women and men, including, inter alia:

- The International Covenant on Economic, Social and Cultural Rights;
- The International Covenant on Civil and Political Rights;
- The Convention on the Elimination of Racial Discrimination;
- The Convention on the Elimination of All Forms of Discrimination against Women;
- General comments adopted by treaty monitoring bodies;
- Resolutions adopted by the United Nations Commission on Human Rights and the Governing Council of UN-Habitat;[7]
- Reports of the Special Rapporteur of the Commission on Human Rights on adequate housing;
- The Beijing Platform for Action of the Fourth World Conference on Women;
- The Habitat Agenda.

What follows is a brief overview of the most prominent among these instruments, namely the International Covenant on Economic, Social and Cultural Rights, and its general comments Nos. 4 and 7.

Legal provisions of the International Covenant on Economic, Social and Cultural Rights

34. The most significant codification of the right to housing is contained in the International Covenant on Economic, Social and Cultural Rights. States that ratify the Covenant are legally bound by its provisions. Its article 11(1) enshrines the right to an adequate standard of living, including food, clothing and housing and to the continuous improvement of living conditions. All economic, social and cultural rights must be exercised in accordance with article 2(2) (non-discrimination) and article 3 (equality between men and women). This means that indigenous peoples are entitled to enjoy the right to housing without discrimination and equally with the majority population. Similarly, indigenous women are entitled to enjoy the right to housing without discrimination and equally with both indigenous men and the majority population.

35. The Committee on Economic, Social and Cultural Rights is the treaty monitoring body responsible for monitoring States party compliance with the International Covenant on Economic, Social and Cultural Rights. It is also responsible for elaborating on the rights codified in the Covenant and, as part of this mandate, it has interpreted the meaning of the right to adequate housing in two general comments. These general comments, although not legally binding per se, provide guidance and are designed to assist Governments in fulfilling their legal obligations as States parties to the Covenant.

Legal interpretations of the International Covenant on Economic, Social and Cultural Rights

36. General comment No. 4 (1991) on the right to adequate housing outlines seven constituent elements required in order for housing to be considered adequate: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy. Analysing the housing conditions of indigenous peoples against these seven elements provides a framework within which to understand the housing disadvantage experienced by indigenous peoples. It also assists in an assessment of the extent to which indigenous peoples enjoy the right to adequate housing.

37. General comment No. 7 (1997) on the right to adequate housing (art. 11(1) of the Covenant): forced evictions is the most comprehensive legal document pertaining to forced evictions under international law. It defines forced eviction as the permanent or temporary removal against the will of individuals, families and/or communities from their homes and/or land, without appropriate forms of legal or other protection.

38. General comment No. 7 recognizes that the practice of forced evictions has a very negative impact on indigenous peoples, and in particular on indigenous women. It stipulates that the State must refrain from implementing forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions. The general comment also states that in addition to Government, private landlords, developers and even international institutions should not engage in the practice of forced evictions.

39. The comment provides States and other actors with direction as to acceptable actions before, during and after a planned eviction. For example, prior to executing

the eviction, the State should explore "all feasible alternatives" with a view to avoiding the eviction.

40. As several of the case studies reviewed by this research study reveal, forced eviction is one of the most pressing housing concerns facing indigenous peoples. Each instance of forced evictions affecting indigenous peoples must be regarded in the light of the human rights principles laid out in general comments Nos. 4 and 7.

Application of the legal provisions of the International Covenant on Economic, Social and Cultural Rights and activities of the Committee on Economic, Social and Cultural Rights

41. The Committee on Economic, Social and Cultural Rights has raised the issue of indigenous housing in a number of instances. For example, in its 1997 review of Peru, the Committee expressed its concern about the great number of forced evictions of people in the Amazon basin, resulting in the destruction of their habitat and way of life. In its 1998 review of Canada, the Committee expressed its concern at the shortage of adequate housing for indigenous peoples and inadequate access to safe drinking water within indigenous communities on reserves, and the fact that almost a quarter of the dwellings of indigenous households required major repairs and lacked basic amenities. In its review of Australia in 2000, the Committee expressed concern that the indigenous populations of Australia continued to be at a comparative disadvantage in the areas of housing, employment, health and education.

Human rights instruments and mechanisms specific to indigenous peoples

42. A number of human rights documents pertaining specifically to indigenous peoples include important references to housing rights and related principles. The research study reviewed a number of such instruments. The highlights from some of these key instruments are summarized below.

ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries

43. Convention No. 169 is the most comprehensive and up-to-date international instrument on the conditions of life and work of indigenous and tribal peoples. As an international treaty, it becomes legally binding once ratified. By the end of 2003, the Convention had been ratified by 17 countries.

44. The Convention emphasizes the right of indigenous and tribal peoples to control their own economic, social and cultural development. It also recognizes that indigenous and tribal peoples have a special relationship with the land and that this is the basis of their cultural and economic survival. In this regard, it calls for a number of special measures of protection with respect to indigenous land rights, including the need to protect indigenous and tribal peoples from unauthorized intrusion or use of their lands, and the need to protect indigenous and tribal peoples from being removed or evicted from their lands. It also includes an equality rights provision for indigenous women.

Draft declaration on the rights of indigenous peoples

45. Although the draft declaration on the rights of indigenous peoples is still being negotiated by Governments — and thus has no formal legal standing — it is already being used by indigenous organization in their struggles for human rights. With respect to housing, the draft declaration includes several provisions relating to forced evictions. It asserts that indigenous people have the right not to be removed from their lands by force, and that no relocation should take place without their free and informed consent and only after adequate compensation is paid or the option of return is provided. It also sets out indigenous peoples' rights to their own economic activities, to special measures to improve their economic and social conditions and to set their own priorities for development. Furthermore, it includes a provision for equality and non-discrimination between indigenous women and men.

Special Rapporteur of the Commission on Human Rights on the situation of human rights and fundamental freedcms of indigenous people

46. The first report of the Special Rapporteur (E/CN.4/2002/97) highlights the overall disadvantage suffered by indigenous peoples across the world, especially with respect to their economic, social and cultural rights. The second report (E/CN.4/2003/90 and Add.1-3) is devoted to an analysis of the human rights violations caused by the implementation of large-scale or major development projects, like hydroelectric dams. The report notes that these projects are of serious concern for indigenous peoples around the world and have grave consequences in terms of their housing. The report indicates that the practice of forced eviction or involuntary resettlement is commonplace in large-scale development projects and that this practice violates civil, cultural, economic, political and social rights of indigenous peoples. The report also notes that women and children are particularly affected by this practice.

Beijing Declaration of Indigenous Women

47. Although not an official document of the Fourth World Conference on Women, the Beijing Declaration of Indigenous Women includes a number of provisions for the improved living and housing conditions of indigenous women. The document was adopted by indigenous women at the Conference in response to their disagreement with the official documents of the Conference, e.g., that the Beijing Platform for Action did not acknowledge the systemic causes of their disadvantage.

48. The Declaration calls upon the international community and Governments to respect the rights of indigenous people to decide what to do with their lands and territories, especially in the context of national Governments opening-up of indigenous territories to foreign investors such as mining corporations. The document also demands that all internally displaced indigenous peoples be allowed to return to their own communities and that the necessary support services be provided to them.

C. Concluding observations

49. The research study has revealed that while indigenous peoples and communities across the world are culturally distinct, their housing conditions and

experiences are remarkably similar. This section provides an overview of some of the most prominent similarities.

Colonization, self-determination and exclusion from decision-making

50. Most of the indigenous peoples reviewed in the study have experienced the effects of colonialism. In many cases, colonization and its effects has threatened the existence, identity and autonomy of indigenous peoples.

51. One of the implications of colonialism is the ongoing effects of lack of self-determination and the exclusion of indigenous people from decision-making structures and processes. With respect to housing, this has meant that indigenous people have been negatively effected in their access to and control over the resources needed to develop and manage their own housing. At the same time, many indigenous peoples have not been invited to participate in a meaningful way in the development and implementation of government housing policies and programmes, nor in discussions or negotiations with State and non-State actors regarding development projects on their lands.

Socio-economic disadvantage

52. In almost all countries reviewed in this research study, indigenous communities have an inferior standard of living compared with the majority population. This disadvantage applies to health, education, employment as well as housing.

Land rights

53. The case studies revealed strong connections between indigenous land rights and housing. These interconnections suggest that indigenous housing disadvantage cannot be solved until indigenous land rights are recognized, land conflicts are resolved and the protection of the natural environment becomes a priority. Indigenous women's rights to housing will continue to suffer until their rights to land ownership are realized. The right to self-determination also seems to be an important factor for the improvement of living conditions, eradication of poverty and housing disadvantage among indigenous peoples.

Discrimination against indigenous peoples (and indigenous women in particular)

54. Indigenous peoples are subject to discrimination and inequality in almost all aspects of housing, including laws and policies that have discriminatory effects, discriminatory allocation of resources for housing and discriminatory practices of private landlords in the rental market (which often prevents them from renting even the worst accommodation). In fact, housing and other development policies and programmes tend either to discriminate against indigenous peoples directly or to have discriminatory effects on their living conditions. Indigenous peoples are often confronted with rampant discrimination when attempting to access credit and loans to buy or build their own housing. When they are housed, they often lack access to such basic services as potable water, paved roads and electricity. Health clinics and schools are often located at great distances from indigenous communities.

55. The study indicate that these inadequate and discriminatory conditions prevail even in countries where there are domestic laws and mechanisms aimed at

promoting equality and protection against discrimination in housing, and/or legislation recognizing land title rights for indigenous peoples. In many instances, indigenous peoples living in countries that have ratified international conventions or treaties that secure the housing and land rights of indigenous peoples, experience that these international legal obligations often fall on the wayside in the face of economic development interests.

56. The study shows that indigenous women bear the brunt of these inadequate conditions. At the same time, they experience gender-specific housing disadvantage, such as domestic violence, and discrimination as a result of customs, traditions and beliefs that often curtail or prohibit women's access to, control over and right to inherit land, property and housing. In many cases, the only way for indigenous women to access housing is to be or to stay married. Because of discriminatory customs, traditions and beliefs — including the devalued perception of women's domestic work — upon marriage breakdown, it is not uncommon for indigenous women to be rendered homeless. Women are generally responsible for childcare, and upon marriage breakdown they have to choose between leaving the children with their families, share overcrowded dwellings, migrate to an alien and difficult urban environment in search of employment opportunities, or stay in a marriage, even if it is abusive.

Violence against women

57. Indigenous women identify domestic violence as one of the most serious and pressing issues facing their communities. Although violence against women — and domestic violence more specifically — are broad issues with many causes and consequences, housing is invariably a central factor. For example, if indigenous women are prohibited from owning or renting housing, fleeing an abusive situation is next to impossible.

Inadequate housing conditions

58. The case studies reveal that, in most countries, indigenous people live in extremely inadequate housing conditions and are not enjoying fully any one of the seven constituent elements of the right to adequate housing: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy.

59. Although the case studies reveal that indigenous peoples are, on the whole, not enjoying the right to adequate housing, this research has also noted several good practices within the development of housing projects or programmes. The most effective have been those that have directly and actively involved indigenous communities and have accounted for the specific needs and the realities of indigenous people. Successful projects have often involved multiple actors (i.e., non-governmental organizations, including faith-based organizations, local authorities and international cooperation agencies) — especially indigenous community groups — during all or at least most stages of the process. The use of local or regional materials and appropriate technologies in the construction of housing has also been effective. It reduces costs, generates local employment, and ensures the housing is adapted to the environmental conditions of the indigenous area. Other important aspects of successful programmes and projects include: decentralized decision-making, the knowledge and recognition of human rights, and

the inclusion of women in all stages of the development process, recognizing their important role at the household as well as community level.

Overcrowding

60. In many of the case studies, overcrowding was identified as a specific housing problem facing indigenous people. An overcrowded house accelerates the deterioration of the dwelling, facilitates the transmission of diseases and promotes domestic violence.

Cultural inadequacy

61. Several of the case studies indicated that housing policies, programmes and structures are often culturally inappropriate for indigenous people. This may occur because indigenous peoples are not included in the formulation (nor in the implementation) of housing policies, programmes and projects.

Urban migration

62. It is often assumed that indigenous people are primarily rural dwellers. This is no longer the case. The research reveals that extreme poverty, the deterioration and dispossession of their lands and forced evictions, combined with the centralization of services and employment opportunities in urban areas, forces or compels thousands of indigenous peoples to migrate to cities and towns. This phenomenon has left indigenous ghost towns and settlements, or reduced its inhabitants to women, children and the elderly. In the cities, indigenous people often experience extreme poverty, rampant discrimination and a loss of spiritual, community and family ties as well as a loss of culture. Their housing conditions are usually very poor, and they are often left homeless.

Evictions

63. Forced eviction is one of the most serious housing problems facing indigenous peoples across the world, in both rural and urban settings. In most instances, forced evictions are the result of development projects such as hydroelectric dams, mining and logging. In other instances, forced evictions occur as a result of discriminatory housing policies, programmes and projects implemented by Governments as well as private landlords. Forced evictions have devastating consequences for indigenous communities. It threatens their very existence. Most often, forced eviction results in the permanent displacement of families from their lands, and thus from their means of subsistence. It leads to relocation to places where they feel they do not belong, and often to urban centres, where poverty is endemic, and where it is difficult for indigenous culture to flourish. Having been dispossessed from their lands, they lack the economic resources and employment opportunities to address their basic needs. For women, who bear the brunt of forced eviction, it can mean an increased workload, increased poverty, instability and domestic violence.

Good laws and policies and the disparity between laws, policies and reality

64. In many of the case studies reviewed by this research it has been observed that a solid and progressive legal foundation for the rights of indigenous peoples has been adopted or are in the process of being adopted. Many pieces of legislation recognize the land rights of indigenous peoples and protect them against forced

relocation. In many instances, however, the laws are not being implemented in a proactive manner, to the benefit of indigenous peoples.

D. Preliminary recommendations

65. **Based on the observations above, the following offers a summary of preliminary recommendations to improve the housing conditions of indigenous people.**

International law

(a) **Member States should adopt the draft declaration on the rights of indigenous peoples as soon as possible — without weakening its provisions, especially those pertaining to land rights;**

(b) **Member States should ratify ILO Convention No. 169 and other relevant international human rights treaties, such as the International Covenant on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Convention on the Elimination of Racial Discrimination, as well as relevant regional instruments;**

(c) **States Parties should effectively implement recommendations and concluding observations of relevant United Nations treaty bodies;**

National law and institutions

(d) **Once ratified, the international legal instruments mentioned above must be incorporated into domestic law and jurisprudence to ensure their applicability in the domestic context;**

(e) **Accessible and culturally appropriate legal and other mechanisms must be established to ensure that indigenous peoples can enforce their rights as established under international and national law;**

(f) **National human rights institutions should promote the rights of indigenous people to non-discrimination and equality, land and an adequate standard of living, including housing;**

(g) **Governments and indigenous community leaders must enact and implement laws and policies that legally protect indigenous women's equal rights to land, property and inheritance, regardless of customs, tradition and tribal law;**

Self-determination

(h) **The right to self-determination for indigenous peoples is an important factor for the realization of all human rights, including the right to housing. Self-determination can improve inclusiveness within and between communities and can increase the effective participation of indigenous peoples in decision-making processes and policy development that directly affects them;**

Discrimination and inequality

(i) In accordance with international human rights law, States must urgently address the discrimination and inequality experienced by indigenous peoples, and particularly that experienced by indigenous women. This requires that rights be interpreted, and that policies and programmes be designed in ways that take indigenous men and women's socially constructed disadvantage into account, that secure for women and men the equal benefit, in real terms, of laws and measures and that provide equality for indigenous women and men in their material conditions;

(j) Indigenous communities must ensure that indigenous women are not subject to discrimination and inequality within their own communities, including through custom and tradition. As indigenous peoples achieve greater levels of participation in decision-making processes, the principles of equality and non-discrimination must guide this process, in particular with regard to the perspectives of indigenous women;

Housing adequacy

(k) In recognition of the special needs of indigenous peoples, States must ensure that national budgets guarantee adequate resources for indigenous housing development and maintenance, and that these resources actually reach and benefit indigenous communities;

(l) Governments should ensure that indigenous people have the means to provide for their own housing needs by restoring a land and economic base that will enable indigenous people to become economically self-reliant;

(m) Within the overall framework of enabling shelter policies and programmes, indigenous communities should be empowered to participate actively and to take a leading role in decision-making and policy development that relates to their housing conditions — whether in urban or rural areas (i.e. to all aspects of housing adequacy as defined in international instruments, including cultural adequacy);

(n) When needed, indigenous peoples must be assisted in developing their expertise in the full range of technical capabilities for effective housing programme design, delivery and management in both urban and rural settings;

(o) Governments and non-governmental organizations must ensure that specific housing programmes and services are available for indigenous people who reside in urban areas. Ideally, to ensure cultural appropriateness, these programmes and services should be managed through the active participation of the indigenous people themselves;

(p) Sustainable traditional and innovative technologies and networks must be developed to ensure all indigenous communities have access to potable water, sanitation services and electricity;

(q) Governments must ensure that adequate health services and elementary and secondary schools are located near all indigenous communities. Such facilities should respect and promote indigenous languages and cultures;

Domestic violence

(r) **Governments, non-governmental organizations and indigenous communities must ensure the provision of safe shelters and services specifically for indigenous women having to leave situations of domestic violence. It is imperative that these services be culturally appropriate. This includes ensuring that staff are indigenous or are trained to work effectively with indigenous women;**

Development projects and evictions

(s) **International, regional and national financial institutions play a vital role in facilitating major development projects by providing various forms of financial support. As such projects have significant impact on the living and housing conditions of indigenous peoples, it is imperative that these institutions' policies regarding development projects be tuned to the needs and conditions of the indigenous peoples; and applied in a manner that ensures consistency with contemporary international human rights instruments such as the International Covenant on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Convention on the Elimination of Racial Discrimination. It must also ensure that such policies are designed and implemented in a manner that complies with international human rights instruments particular to indigenous people, such as ILO Convention No. 169, as well as with any relevant national laws, treaties, agreements or pending agreements regarding human rights and the rights of indigenous peoples;**

(t) **States, in conjunction with international financial institutions and other lending agents, must undertake human rights impact assessments prior to initiating development projects in indigenous areas. If these assessments indicate that human rights violations may result — whether civil, cultural, economic, political or social — the projects must be reviewed and renegotiated to address such concerns;**

(u) **Economic development projects must be developed and implemented with the participation of indigenous peoples as equal partners in decision-making processes. This means that their voices must be heard and their demands and grievances met when major decisions are taken regarding development priorities and the allocation of resources;**

(v) **States and financial institutions must do everything possible to avoid the eviction of indigenous peoples from their homes and lands for development projects. When evictions are absolutely unavoidable, they must be undertaken in a manner that conforms to international human rights standards as contained in general comment No. 7 of the Committee on Economic, Social and Cultural Rights and the United Nations comprehensive human rights guidelines on development-based displacement.**

Notes

[1] *Official Records of the Economic and Social Council, 2003, Supplement No. 23* (E/2003/43), chap. I.

[2] *Report of the United Nations Conference on Human Settlements (Habitat II), Istanbul, 3-14 June 1996* (United Nations publication, Sales No. E.97.IV.6), chap. I, resolution 1, annex II.

[3] See General Assembly resolution 55/2.

[4] Resolution 19/13 on enhancing the engagement of youth in the work of UN-Habitat. See *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 8* (A/58/8), annex I.

[5] *Official Records of the Economic and Social Council, 2002, Supplement No. 23* (E/2002/43/Rev.1).

[6] José Martinez Cobo, the Special Rapporteur of the Subcommission on Prevention of Discrimination and Protection of Minorities, in his study of the problem of discrimination against indigenous populations in 1986 (E/CN.4/Sub.2/1986/7 and Add.1-4).

[7] Including those adopted prior to 2002 by the Commission on Human Settlements.

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Note by the Secretariat

Addendum

United Nations Children's Fund

Summary

Over the past year, the United Nations Children's Fund (UNICEF) has taken action on many of the numerous recommendations the Permanent Forum on Indigenous Issues made to the organization. At the global level, UNICEF has finalized a digest on the rights of indigenous children to be released at the end of February 2004. UNICEF participated in the Day of General Discussion at the Committee on the Rights of the Child and supported the participation of two indigenous participants. Awareness on indigenous issues within the organization, under the framework of rights-based programming, has been promoted. In the area of data disaggregation, UNICEF participated in a workshop held in January 2004 and is considering ways for integrating this dimension into its data-collection system. At the regional level, a framework document for UNICEF work with indigenous children and communities in Latin America and the Caribbean is being finalized. Two case studies have been prepared. UNICEF also participated actively in the preparation for the Ibero-American Summit to ensure a focus on indigenous issues. A Latin American conference of indigenous children and youth is under preparation. The visit of the Secretary-General also provided an opportunity to strengthen inter-agency coordination in the region and give visibility to indigenous issues. At the country level, programmes have continued to address the specific needs of indigenous children and to promote the active participation of communities.

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Indigenous women are full partners in UNICEF programming. UNICEF works to ensure that their rights are fulfilled, by promoting women's participation and raising awareness on, and addressing, the discrimination they face, in particular in health and education and protection from violence and abuse.

A. Response to recommendations addressed exclusively to the United Nations Children's Fund under one or more items of the mandate of the Forum in the report on the second session of the Permanent Forum on Indigenous Issues*

Include questions on ethnicity, cultural and tribal affiliation and language in Demographic and Health and Multiple Indicator Cluster Surveys (para. 67).[1] Provide information from the Multiple Indicator Cluster Survey data (para. 5 (b))

1. UNICEF participated actively in the workshop on data disaggregation organized by the secretariat of the Permanent Forum on Indigenous Issues. UNICEF hired an indigenous consultant who had the task of participating in the workshop and making recommendations as to how UNICEF could disaggregate data by indigenous origin. A UNICEF expert statistician made a presentation on data from the Multiple Indicator Cluster Survey and the Demographic and Health Survey, with the following recommendations on how to analyse existing data and include data related to indigenous peoples within this framework:

(a) **Powerful advocacy needs to be developed on the importance of measuring indigenous populations. The majority of indicators for which data is obtained from household surveys is supported by a strong rationale based either on the Millennium Development Goals, or on other existing international agreements or mechanisms to monitor and evaluate programmes and interventions of Governments and international agencies;**

(b) **Active involvement is required in the design, implementation, reporting, analysis and dissemination of these surveys. This is something that should be done not only at the global levels but also at the country level;**

(c) **From the survey design perspective, the number of questions identifying indigenous populations will compete for space in a questionnaire with the questions needed for all the other areas to be measured. It is easier to advocate for the inclusion of a small number of questions if they are previously identified with clear wording, response categories and coding, sampling considerations, training and supervision instructions, data quality issues, data-processing requirements and tabulation plans;**

(d) **Although the added cost of including measurement of indigenous populations in any existing survey is not expected to be significant (assuming no more than two or three questions and no special sampling requirements) it is important to develop a minimum budget to buy, if necessary, part of the survey and to make sure that the data collected is properly transformed into useful information.**

Adopt a policy on indigenous children (para. 67). Develop policy on and guidelines regarding indigenous peoples before the third session of the Forum (para. 13)

2. The regional office of UNICEF for Latin America and the Caribbean is currently finalizing a regional document aimed at promoting the rights of indigenous

* *Official Records of the Economic and Social Council, 2003, Supplement No. 23* (E/2003/43), chap. I.

children. The document is being elaborated in collaboration with indigenous representatives. Specifically, two members of the Forum from the region have been involved in the process. UNICEF aims to present and disseminate the paper at the third session of the Forum. This document is intended to serve as a framework for analysis and for the development of actions in favour of indigenous children in the region. Based on this framework, programme guidelines for the promotion of the rights of indigenous children will be developed.

Present a digest and case studies to the Forum at its third session (para. 10)

3. Digest No. 11, entitled "Ensuring the Rights of Indigenous Children", prepared by Innocenti Research Centre of UNICEF in consultation with indigenous peoples and international experts, has been finalized and will be launched at the end of February 2004. It will be made available at the third session of the Forum. UNICEF supported the translation of the outline of the Digest into indigenous languages, specifically Quechua, Wayunaiki and Kuna. In 2004, a user-friendly version of the Digest will be translated into at least four indigenous languages, including Quechua, Aimara, Quiché and Guaraní.

4. Within the framework of its human rights based approach to programming, UNICEF has undertaken two case studies on indigenous children. One deals with intercultural and bilingual education in Bolivia. The study has been completed and copies will be made available at the third session of the Forum. The publication is in Spanish, but a summary in English will also be available. The other is an overview of UNICEF cooperation in Ecuador for the rights of indigenous children, adolescents and women in that country. This study is currently being finalized. UNICEF will make it available as soon as possible.

Report on indigenous children with limited or no access to health-care services with recommendations for improved access (para. 66)

5. From its experience in working with indigenous communities in the area of health, UNICEF has identified several main issues related to access to health services. One is the lack of services in areas where indigenous people live, which can be remote areas, of difficult access, or which do not constitute priority location for Governments' investments. In addition, the cost of health care can be prohibitive for indigenous peoples who live in poverty. Often the mere lack of information on existing health services can also be an obstacle to access to health services. Importantly, one specific problem is the lack of cultural sensitivity of medical staff and techniques, which may not take into consideration traditional methods for health care and giving birth. Responses identified by UNICEF and implemented in country programmes include the training of indigenous leaders on health issues, mobile health-care units or transportation of medical staff to indigenous areas, and training of medical staff on traditional health methods. Broader activities include advocacy with Governments to ensure that their investments target the most marginalized.

Present an annual report to the Forum (para. 5 (b))

6. UNICEF is presenting its annual report to the Forum, upon Forum recommendations. Owing to a lack of resources, UNICEF does not have the internal capacity to present annually a fully detailed report and analysis of all of its activities related to indigenous children worldwide. Programme cycles at UNICEF are

country-based, and planned over a period of five years. Such decentralization allows for better participation of indigenous communities at the national and local levels, and ensures that programmes are well adapted to the specificities of the population. **Therefore, UNICEF wishes respectfully to refer the Forum to the report on its activities that it presented to the Forum in 2003 (E/C.19/2003/13). UNICEF is ready to provide the Forum with information on such activities in specific countries should the Forum so request.**

Report on the 2003 Ibero-American Summit (para. 12)

7. UNICEF participated actively in the preparation of the 2003 Ibero-American Summit, in particular through its involvement in the fifth Ibero-American Conference of Ministers and Senior Officials responsible for Children and Adolescents, held at Santa Cruz de la Sierra, Bolivia, on 18 and 19 September 2003, to ensure that indigenous issues were given visibility. With a view to promoting child participation and ensuring that children and adolescents had a voice in the Conference, UNICEF supported the organization of various sessions of the National Children's Parliament, with the participation of children and adolescents from around the country. At the third session, the Parliament prepared a declaration for the Ibero-American Conference of Ministers and High Officials for Children and Adolescents in four indigenous languages.

8. The Conference focused on indigenous and afro-descendant children and the need for their social inclusion. UNICEF supported the organization of a panel on indigenous issues to which high-level indigenous representatives participated, including a member of the Forum. The Conference issued a declaration for consideration by Heads of State and Government at the Ibero-American Summit in November. The declaration makes a strong plea in favour of the rights of indigenous and afro-descendant children, and calls for increased financial allocations and protection of budget allotments for children and adolescents in case of financial crisis, and mechanisms of external debt conversion in favour of investments in education. In particular, the delegates of the 19 participating countries resolved:

(a) To develop equitable and inclusive social policies and programmes in favour of indigenous and afro-descendant children;

(b) To promote and respect the participation of indigenous and afro-descendant children and adolescents in the spirit of the document of the United Nations special session on children entitled "A World Fit for Children";

(c) To take up the commitment of the thirteenth Ibero-American Conference of Education Ministers to respect and promote the right of indigenous people to bilingual education, to extend intercultural education to all children as a means of social inclusion, and to analyse debt conversion mechanisms for increased investment in the education system;

(d) To request their Governments and the international community to increase financial allocations and protect budget allotments for children and adolescents in case of financial crisis.

Appoint a goodwill ambassador on indigenous children and youth and urge all UNICEF ambassadors to pay attention to indigenous children and youth (para. 14)

9. UNICEF goodwill ambassadors are appointed to advocate for children, attract attention on the needs of children, fundraise for children and support the UNICEF mission to ensure every child's right to health, education, equality and protection. Goodwill ambassadors are thus not assigned a specific mandate with regard to a particular category of children, but work to promote children's rights, for all children, all the time, everywhere. They act on a voluntary basis. However, UNICEF stands ready fully to support actions by goodwill ambassadors aimed at raising awareness on the situation of indigenous children.

B. Response to recommendations addressed to one or more agencies or to the United Nations system in general under one or more items of the Forum mandate

Education on the Forum (para. 108)

10. UNICEF has initiated work with the secretariat of the Forum regarding strategies to organize a youth art competition for the design of a logo for the Forum and to help prepare a Department of Public Information publication aimed at informing indigenous children about the Forum. At the country level, UNICEF has supported inter-ethnic meetings of youth and adolescents, including workshops on leadership, in which participants receive information on the Forum. The Digest also highlights the importance of the Forum and is intended to be a tool for education on indigenous issues.

Prepare a Latin American conference of indigenous children and youth in 2004 (para. 21)

11. UNICEF is currently planning to support the organization of a conference of indigenous children and youth, most likely in Ecuador in August 2004. The decision to promote such a conference was made in July 2003 following the recommendation of the Forum. The modalities of the conference will be discussed further at a regional meeting in Latin America at the end of March 2004.

Address issues related to trafficking and sexual exploitation of indigenous girls (para. 16)

12. UNICEF works around the globe to address the trafficking and sexual exploitation of children. These programmes address the root causes of trafficking and sexual exploitation, which often lie in poverty and marginalization. Although not specifically focused on indigenous girls, UNICEF programmes and policy encompass issues faced by indigenous communities with regard to trafficking and sexual exploitation.

13. Both trafficking and sexual exploitation are global and local issues. At the global level, UNICEF advocates for the ratification of international instruments and the elaboration of standards and mechanisms that allow countries to cooperate. Trafficking and sexual exploitation are indeed transnational issues that require the setting up of inter-country agreements and mechanisms of cooperation. UNICEF is

working to promote and support such agreements, in particular at the regional level. At the country level, UNICEF focuses its efforts in the areas of prevention, protection, recovery and reintegration. An essential element of prevention consists in addressing poverty and ensuring that all children, especially girls, attend school so that they can eventually support themselves and become less vulnerable to trafficking and exploitation. Prevention also consists in promoting social mobilization in communities against the exploitation and trafficking of girls, and supporting awareness-raising campaigns that provide children and parents with adequate information to participate in their own protection. Protection implies strengthening legislation and guaranteeing that laws are actually enforced. Recovery and reintegration entail to identify victims, provide them with services and support, and find long-term solutions.

Report on capacity-building (para. 11)

14. **UNICEF believes that the Innocenti Digest on the rights of indigenous children will be a great tool for advocacy and capacity-building in this area, and invites other agencies to contribute to its dissemination.** UNICEF activities for capacity-building in indigenous communities take place at the national and local level. Specifically, UNICEF supports local governments and indigenous organizations in indigenous municipalities, with a view to strengthening their management and planification capacities, in particular for the implementation of policies in favour of children.

Initiate situation analyses on indigenous children (para. 8)

15. UNICEF country programmes are always based on situation analyses, which provide an overview of the situation of children and women in a given country and examine the root causes of that situation. In addition to elaborating situation analyses on women and children for its programming, UNICEF contributes to the situation analysis made by the United Nations country team through the common country assessment. In countries where indigenous people live, situation analyses identify and highlight existing disparities, and mention possible causes such as discrimination, geographic location, etc.

Focus on indigenous children and youth in the Healthy Environments for Children Alliance (para. 79)

16. Work on this issue has not yet been initiated.

Workshop on indigenous health with the World Health Organization and the United Nations Development Programme (para. 64)

17. The workshop has not yet been planned.

Conduct study on legal frameworks and social programmes on indigenous urban youth (para. 15)

18. Work on the study has not yet begun.

Gather and disaggregate data on indigenous infants, children and mothers based on criterion relating to ethnicity, cultural and tribal affiliation and language (para. 70) and develop new indicators on indigenous children and youth (para. 9)

19. See section A above on the same issue.

C. Other significant information regarding recent policies, programmes, budgetary allocations or activities regarding indigenous issues within the Fund

Follow-up to the visit of the Secretary-General to Latin America

20. The Secretary-General's visit to Latin America has given further impetus and visibility to the situation of indigenous peoples. On this occasion, UNICEF supported the translation of the Secretary-General's statement regarding indigenous peoples into Quechua and Guarani. UNICEF is committed to build on this momentum to trigger action by the United Nations system in the region. A meeting was convened by the Department of Political Affairs with representatives from the United Nations system at headquarters and in the region. UNICEF is committed to taking this opportunity, together with other agencies, to take further action at the regional level to advocate for the rights of indigenous peoples. As a result of this meeting, an inter-agency strategy is in the process of being elaborated, and the inter-agency coordination at the regional director's level is being strengthened on indigenous issues. **As agreed with other agencies, the Millennium Development Goals framework should be reviewed from an indigenous peoples' rights perspective. UNICEF will work to ensure that data on indigenous peoples is gathered, in order to analyse and address their situation with a view to reducing disparities.**

Global consultation on the human rights-based approach to programming

21. In September 2003, UNICEF held its Second Global Consultation on the Human Rights-Based Approach to Programming, at Quito. Such consultations gather senior UNICEF staff from headquarters and from various regions in order to discuss and inform UNICEF's rights-based programming at the country level. The Second Consultation included an agenda item devoted to indigenous issues, where the work of the Forum, as well as two case studies on programming in Bolivia and Ecuador were presented. **The outcome document of the consultation highlights the importance of indigenous issues as one of the areas of focus for rights-based programming.**

Day of General Discussion at the Committee on the Rights of the Child on the rights of indigenous children

22. UNICEF contributed actively to the Day of Discussion, through the submission of document containing a set of recommendations regarding the right of indigenous children to education, as well as through the participation of UNICEF representatives from the office in Geneva, the Innocenti Research Centre, headquarters and the Latin American region. In addition, UNICEF funded the participation of two indigenous participants, a youth and a rapporteur for one of the groups.

Country programmes in 2003

23. In 2003, UNICEF continued to work with indigenous communities at the country level towards the realization of indigenous children's rights through its programmes of cooperation. Following is a non-exhaustive overview of UNICEF programmes at the country level:

(a) Programmes for birth registration targeting indigenous communities have taken place in Peru, Panama, Venezuela and Bolivia;

(b) Culturally sensitive health programmes have been supported in the Niger, Paraguay, Ecuador, Peru, Bolivia, Venezuela and Paraguay, and immunization campaigns in indigenous areas have been launched in Peru and Nicaragua;

(c) Bilingual and intercultural education addressing the needs of indigenous children have continued in Mexico, Ecuador, Bolivia, Guatemala, Brazil, the United Republic of Tanzania, Thailand, Guyana and the Philippines;

(d) Water and sanitation projects have been supported in Paraguay, Panama and Bolivia;

(e) Early childhood development has been a component of country programmes in Paraguay, Panama, Bangladesh and Venezuela;

(f) Specific activities for the promotion of indigenous children have been supported in Nicaragua, Bolivia, Brazil, Venezuela, and Guatemala;

(g) Programme for the Andean Region and Amazonic subregional programmes, integrating projects with indigenous communities in these subregions, have continued to be implemented.

D. Information and suggestions regarding the special theme of the third session, "indigenous women"

24. UNICEF is guided in its work by its Mission Statement, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. According to the UNICEF Mission Statement, in addition to the Fund's mandate to assure that the rights of every child are respected and fulfilled everywhere and without discrimination, it is also its task to promote the equal rights of women and girls and to support their full participation in the political, social and economic development of their communities. The Convention on the Rights of the Child states that all children must be assured in their rights without discrimination of any kind — including gender and ethnic origin — and that they must enjoy the right to participate in their own culture. Likewise, the Convention on the Elimination of All Forms of Discrimination against Women highlights the importance of the elimination of all forms of discrimination against women in the exercise of their human rights in the political, economic, social, cultural, civil and other fields. Specifically, in its preamble, the Convention refers to the eradication of all forms of racism and racial discrimination. The Fund's human rights-based approach to programming implies that UNICEF activities are based on human rights treaties and are aimed at fulfilling the rights of women and children. This is done with the active participation of indigenous women and children, by

empowering them and ensuring that they are the key actors in their own development.

25. **UNICEF believes that the situation of indigenous women has to be understood within a framework that incorporates several elements, including:**

(a) **Indigenous women's voice;**

(b) **The socio-cultural and economic context;**

(c) **Processes of change led by women themselves within their social groups.**

26. Following are some of the initiatives that the UNICEF country offices have been supporting in order to promote the realization of indigenous women's and girls' rights.

27. In most of the countries where they live, indigenous women face a double discrimination, based on gender and their indigenous origin. UNICEF works with indigenous women to address such discrimination. In Guatemala, the first national report on the situation and rights of indigenous women was elaborated by the indigenous women's defence, with support from UNICEF and other agencies. The report shows how the rights of indigenous women have been systematically violated, and provides a strong basis for the elaboration and implementation of new policies for the participation and inclusion of indigenous women. Women's organizations were also supported in the production of a document entitled "Women in diversity", as an advocacy tool directed at political candidates. In Bolivia, in 2003, 535 indigenous women leaders from the Amazon region were trained in women's rights and leadership, and another 100 participated in fairs on the rights of women.

28. Education is a main focus of UNICEF work, as girls are often discriminated against in access to education, resulting in high illiteracy rates among indigenous women. This impacts on their children's rights, including the right to health and education. It also impairs the ability of women to participate in decision-making. In Bolivia, for example, programme activities have included literacy work with young women from seven indigenous Amazon people and literacy campaigns for indigenous women in rural municipalities. In the same country, UNICEF is initiating a programme aimed at improving the education of indigenous girls. In the Philippines, UNICEF has supported female functional literacy classes for mothers. Training materials have been translated into five indigenous languages for coverage among indigenous and marginalized groups. UNICEF and its partners have also begun to address gender disparities in the indigenous mountain regions of the north and in southern Philippines by developing girl-friendly school initiatives.

29. In the area of health, studies in several countries have demonstrated that indigenous women suffer from higher maternal mortality rates than their non-indigenous counterparts. This is often owing to the lack of adequate maternal care services. In order to address this issue, UNICEF has supported the training of traditional birth attendants in Argentina, El Salvador, Malaysia and Peru. In Guyana, UNICEF has carried out educational sessions for pregnant and lactating women. In Venezuela, caring mothers from day care centres were trained in practices for the attention of children under six years, taking into consideration the Wayúu upbringing patterns, and community mothers from non-formal community centres were trained in rights, indigenous education and Wayunaiki reading-writing. A study

on upbringing patterns and childhood development in indigenous populations in Venezuela is also under way in agreement with the communities concerned. It consists in a bibliographic research as well as field investigations in six indigenous populations (Ye'kuana, Piaroa, Warao, Pemón Wayúu and Añú). When the final report is available, workshops on childhood development and indigenous people will be carried out with partners.

30. UNICEF also works to protect indigenous women and girls against violence, abuse, neglect and exploitation. In Brazil, UNICEF has accomplished studies on black and indigenous domestic working girls in Belém, Recife and Belo Horizonte, while in Guyana, UNICEF has promoted women's economic empowerment and formed groups of Amerindian women in non-farm-based activities. In Venezuela, a campaign aimed at addressing violence against women was launched, with the creation of a phone line and the training of protection counsellors in several regions. In Mexico, UNICEF supported the publication of a study entitled "Niñas Indigenas: La Esperanza Amenazada".

E. Conferences and other meetings under the agency regarding indigenous issues in 2004-2005

31. UNICEF has tentative plans to hold a Latin American conference of indigenous children and youth in August 2004.

Notes

[1] The paragraphs in parentheses refer to *Official Records of the Economic and Social Council, 2003, Supplement No. 23* (E/2003/43), chap. I.

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Addendum

World Intellectual Property Organization

Summary

In the present information note, the World Intellectual Property Organization (WIPO) responds to the recommendations made by the Permanent Forum on Indigenous Issues at its second session, in 2003. WIPO draws attention in particular to a set of measures put in place to enhance the participation of indigenous peoples and local communities in the work of WIPO, including the sessions of its Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. Information is provided on the recently renewed mandate of the Intergovernmental Committee and the ongoing capacity-building programmes of WIPO, which also involve extensive participation by representatives of indigenous and local communities. WIPO additionally provides information on a meeting of the Inter-Agency Support Group that it hosted in September 2003.

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I. Responses to recommendations addressed to the World Intellectual Property Organization by the Permanent Forum at its second session

1. Recommendation 10, in chapter I, paragraphs 58 and 59, of the report of the Permanent Forum on its second session,[1] is addressed to the World Intellectual Property Organization (WIPO). Paragraph 58 refers to the mandate of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, to the willingness of the Forum to contribute expertise and experience to the work of the Committee and to the funding of the participation of members of the Forum in sessions of the Committee. Paragraph 59 recommends that WIPO undertake a study, in collaboration with the Forum, on the use and commercialization of, and benefit-sharing in connection with, indigenous knowledge relating to medicinal plants. In addition, chapter I, paragraph 97, of the report refers to the participation of indigenous peoples and local communities in the work of the Committee.

Mandate of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore

2. In late 2003, the member States of WIPO decided on a new and extended mandate for the Intergovernmental Committee, which requires it to accelerate its work and to focus in particular on the international dimension of intellectual property and genetic resources, traditional knowledge and traditional cultural expressions (or "expressions of folklore"). The new mandate of the Committee is not limited in terms of possible results that may eventually be achieved, including the possible development of an international instrument or instruments in this field. The next session of the Committee will take place at WIPO headquarters in Geneva from 15 to 19 March 2004. The programme of activities in this area also includes a range of complementary practical activities, such as capacity-building, legislative assistance and cooperation with a broad spectrum of national, regional and international initiatives.

3. All working documents, papers, studies, questionnaires and other material prepared for consideration by the Committee, as well as comprehensive reports on its sessions, are publicly available, in English, French and Spanish, at http://www.wipo.int/tk/en/igc/documents/index.html.

Contribution of expertise and experience by the Forum

4. The Forum was represented at the fifth session of the Intergovernmental Committee, in July 2003, and a member of the Forum, Parshuram Tamang, participated at the invitation of WIPO in a WIPO interregional seminar on intellectual property and genetic resources, traditional knowledge and folklore in Isfahan, Islamic Republic of Iran, in June 2003. **WIPO considers that the Forum can play a vital role in contributing expertise and experience to its activities and would be pleased to build upon and extend its relationship with the Forum in this regard.** For example, as mandated by the Committee, WIPO is commencing

a study of indigenous and customary laws and of how greater respect for them may constitute a part of effective protection for traditional cultural expressions and knowledge. WIPO would welcome expert advice and input from the Forum in relation to this study and will be in contact with the Forum in this regard in due course.

Participation of indigenous peoples

5. The member States of WIPO have repeatedly stressed the priority attached to enhancing the participation of the Forum and indigenous representatives in the sessions of the Intergovernmental Committee. Exploration and consultation continue on options and modalities for facilitating and generally improving the participation of indigenous peoples in the work of WIPO on these issues. The practical experience and guidance of the Forum and its members are invaluable inputs for achieving this goal. Member States of WIPO have expressed their "unanimous support for directly involving as much as possible representatives of indigenous and local communities in the work of the Intergovernmental Committee".[2] Ongoing work focuses on improved arrangements for the development of, and consultation on, substantive materials and on improving and funding participation. The member States of WIPO have also expressed the wish that the participation of the Permanent Forum in the work of the Committee be facilitated.[3]

6. In this regard, a number of practical steps have already been undertaken, including:

(a) A fast-track accreditation procedure for all non-governmental organizations has been in place since the first session of the Committee, in April 2001. More than 85 non-governmental organizations have received accreditation, including many representing indigenous peoples. No applicant has been denied accreditation;

(b) The Forum's important role in coordinating indigenous engagement with international policy debate has been recognized, with the WIPO General Assembly extending a formal invitation to take part and many participants welcoming the active participation of the Forum;

(c) A number of member States have adopted the practice of funding the participation of representatives of indigenous and local communities in sessions of the Committee;

(d) The funds provided by WIPO to support the participation of developing countries have been used in some cases by such countries to support the participation of leaders of their indigenous or local communities;

(e) Consultations and workshops at the national and regional levels and other forums aimed at developing focused input for the Committee have included representatives of indigenous and local communities as speakers and participants;

(f) As agreed by the Committee at its last session, the WIPO web site now provides for written contributions by accredited non-governmental organizations on the issues before the Committee (see http://www.wipo.int/tk/en/igc/ngo/index.html);

(g) Specific briefings and consultations for non-governmental organization representatives, particularly representatives of indigenous and local communities, are undertaken within the framework of meetings of the Committee;

(h) The WIPO secretariat has continued its practice of consulting with interested representatives of indigenous and local communities on draft documents and other material being developed for the Committee, as well as related capacity-building and awareness documents, including a series of case studies and a distance learning course prepared by indigenous experts.

7. The fifth session of the Committee, in July 2003, studied a wide range of specific proposals regarding the participation of indigenous and local communities,[4] and an update and further proposals will be discussed at the sixth session, in March 2004.[5]

Study on indigenous knowledge related to medicinal plants

8. WIPO has conducted several studies and analyses on the intellectual property issues associated with the use and commercialization of, and benefit-sharing in connection with, indigenous knowledge relating to medicinal plants. For example, in cooperation with the United Nations Environment Programme (UNEP), WIPO commissioned the publication of case studies on the role of intellectual property rights in the sharing of benefits arising from the use of biological resources and associated traditional knowledge, which were widely distributed in 2001. Numerous other activities, papers and studies undertaken and published by WIPO dealing with traditional knowledge more generally, as well as genetic resources, also address the kinds of issues raised in the Forum's recommendation. In 1999, for example, WIPO organized, in cooperation with the Government of India, a round table on traditional medicine in New Delhi, and in 2003 it conducted a fact-finding mission on traditional medicine in China. The results of these activities and existing materials might be useful as an initial source of information for the Forum. **WIPO would be pleased to discuss with the Forum its interests and objectives and how best WIPO can assist in this regard.**

9. Chapter I, paragraph 96, of the report of the Permanent Forum on its second session recommends that WIPO continue to cooperate with other organizations and agencies. Indeed, WIPO and other organizations and agencies, such as the secretariat of the Convention on Biological Diversity, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, UNEP and the Office of the United Nations High Commissioner for Human Rights, continue to cooperate, particularly to avoid duplication and ensure the complementarity of their respective activities.

II. Responses to recommendations addressed to more than one agency by the Permanent Forum at its second session

10. In chapter I, paragraphs 36 and 45, of the report, reference is made to the principle of prior informed consent in relation, inter alia, to indigenous knowledge. In the work of WIPO on intellectual property, traditional knowledge and cultural expressions, this principle is often discussed. An aspect of prior informed consent is

already a part of current intellectual property rights in the form of exclusive rights, the most common form of intellectual property right. In addition, the Committee is exploring ways in which prior informed consent could form part of possible new sui generis intellectual property systems. **WIPO would be willing to contribute information in this regard to any working group that may be established in relation to prior informed consent.**

11. Chapter I, paragraph 42, of the report refers to arts and crafts and certificates of origin in particular. In a series of practical studies commissioned by WIPO, Australian indigenous lawyer Terri Janke provides information on how indigenous Australians have used trademarks and licensing arrangements to certify the authenticity of their arts and crafts.[6]

III. Other significant information

12. WIPO was pleased to welcome the Chairman of the Forum, Henrik Ole Magga, and two Forum members, Ida Nicolaisen and Wilton Littlechild, at its headquarters on 18 September 2003, where they met with Francis Gurry, Assistant Director General, and colleagues.

IV. Information regarding indigenous women

13. The WIPO web site contains a page dedicated to women and intellectual property, which includes a specific section on women and traditional knowledge.[7]

V. List of relevant conferences and other meetings in 2004-2005

14. The sixth session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore is to be held in Geneva from 15 to 19 March 2004.

Meeting of the Inter-Agency Support Group

15. In accordance with the rotational schedule of the Inter-Agency Support Group, WIPO hosted one of its meetings at its headquarters in Geneva on 8 September 2003. Ten United Nations agencies and organizations were represented. During a full and productive meeting, the Group discussed and made progress on a number of issues. Considerable attention was given to the methods of cooperation between the Support Group and the Forum, as it was felt that in-depth discussion of this issue would pave the way for an enhanced working relationship between the Forum and the United Nations system and provide longer-term benefits. Discussions were aimed at further improving inter-agency cooperation on indigenous issues and at identifying modalities for strengthening the ability of the United Nations system to respond to the Forum's recommendations. Numerous useful and practical suggestions were made and have been communicated to the Forum, at the request of the Support Group, by the Department of Economic and Social Affairs, which is also a member of the Support Group. The terms of reference of the Support Group were

also updated, and many practical matters arising from the Forum's recommendations made at its second session were discussed. Preparations for a workshop on data collection in January 2004 and arrangements for the elaboration of a Support Group paper on free, prior and informed consent were also discussed. However, more time would have been required to deal fully with all matters. The Support Group was pleased to welcome the United Nations Conference on Trade and Development to the meeting as a new member, and agreed to continue efforts to encourage other agencies and organizations to join. The United Nations Development Programme offered to host the next Support Group meeting in New York.

Notes

[1] *Official Records of the Economic and Social Council, 2003, Supplement No. 23* (E/2003/43-E/C.19/2003/22).

[2] Report on the fourth session of the Intergovernmental Committee (WIPO/GRTKF/IC/4/15), para. 60 (i).

[3] Ibid., para. 60 (iii).

[4] See WIPO/GRTKF/IC/5/11.

[5] See WIPO/GRTKF/IC/6/10.

[6] Available in hard copy from WIPO and at http://www.wipo.int/tk/en/publications/index.html.

[7] See http://www.wipo.int/women-and-ip/en/programs/tk.htm.